

**DURHAM, NORTH CAROLINA  
TUESDAY, JUNE 22, 2004  
5:30 P.M.**

**Pursuant** to the proper notification, the Durham City Council held a special meeting on the above date and time in the Committee Room at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

Also present: City Manager Conner, City Attorney Blinder, City Clerk Gray and Deputy City Clerk Bratcher.

Mayor Pro Tempore Cole-McFadden called the special meeting to order. She noted Mayor Bell would be arriving later in the meeting.

City Manager Conner requested that the following item be added to the agenda: Birchwood Community Programs.

Council Member Clement requested that the following item be added to the agenda: Report on Old North Durham Park.

**SUBJECT: FUTURE CAPITAL IMPROVEMENT PLANS AND POTENTIAL  
BOND REFERENDUM**

Budget Director Julie Brenman noted during the recent budget deliberations, council discussed the Capital Improvement Plan for 2004-2005 which was adopted on June 21, 2004 as a part of the budget. She noted an additional meeting was held with the Citizen CIP Committee, as requested by Council, to ascertain feedback relative to their support of having a bond referendum in the fall of 2004. Ms. Brenman noted by a vote of 9 to 8, the Citizen CIP Committee approved the following motion: That the City Council direct staff to spend the next six months soliciting community input, determining the right group of projects and establishing creditability with the its capital improvement projects in order to move forward with a general obligation bond referendum in November 2005.

Budget Director Julie Brenman made available to council a summary of the Capital Improvement Plan by year. Also, she made available changes to each program category made by Council during the budget deliberations on the CIP.

Wesley Parham of the Transportation Division presented information/map on what the needs are on Riddle and Fayetteville Roads. He made comments on the status of pedestrian facilities in the vicinity of Hillside High School, Fayetteville and Riddle Roads. Mr. Parham noted the school system is in the process of preparing a traffic impact analysis for an additional school which will be required as part of a site plan. He also made comments on the American Tobacco Trail. Mr. Parham reminded council that

a citizen made comments at the June 21<sup>st</sup> meeting about having pedestrian access to the Hillside site and the proposed new school. Mr. Parham noted there are a number of pedestrian facilities in the area and a number still to come with projects already funded or that will be required of others.

It was noted the presentation/comments noted by Mr. Parham would not address Riddle Road immediately.

Mayor Pro Tempore Cole-McFadden made comments on Riddle Road and the need for safety. The Mayor Pro Tempore asked how can Riddle Road be addressed.

City Manager Conner noted there is a Riddle Road project in the CIP proposed for outer years.

Wesley Parham made comments on the Riddle Road curb and gutter project with sidewalks in the CIP in the outer years.

City Manager Conner noted one option would be for Council to move the Riddle Road project forward.

Mayor Pro Tempore Cole-McFadden noted this request from PAC 4 has been before the administration/council long before she became a council member and she would like to see it move forward due to safety issues.

Discussion was held on the school having shared responsibility for sidewalks; the proposed new school; and Buxton/Riddle road intersection alignment.

At this time the following citizens were given an opportunity to speak.

Harold Chestnut, representing PAC, spoke in support of council moving forward with curb and gutter for Riddle Road. He noted they have waited for 18 years.

Council Member Catotti asked if the community still had a need for sidewalks since the construction of American Tobacco Trail.

Harold Chestnut replied there was no need for the sidewalks but they needed the curb and gutter.

Barbara Lofton, representing PAC 1, spoke in support of curb, gutter and sidewalks for Riddle Road. She noted the trail was not being utilized by black children.

Melvin Whitley, representing PAC, spoke in support of Riddle Road improvements being moved forward.

Anita Keith-Foust asked for improvement for Bay Street Park.

Council Members Catotti and Clement spoke in support of moving forward with a bond referendum in November 2004 noting the city has critical maintenance needs that will get more expensive over time. Council Member Catotti stated she was willing to go out to the public and market this bond.

Council Member Best spoke in opposition to a bond referendum in 2004 noting the focus should be on the needs of the citizens not the wants of a few citizens.

City Manager Conner made comments on the needs of the community and the money not being available.

Council Member Brown spoke in opposition to having a bond referendum in 2004 and made comments on the tax increase approved on June 21<sup>st</sup> as a part of the adopted budget. Also, he made comments that the tax increase would help spending for youth programs. He noted trust needed to be rebuilt with the citizens and voiced concern that the citizens of Durham are facing an increase in both city and county taxes.

Council Member Stith spoke in opposition of moving forward with a 2004 bond referendum noting citizens concerns with the 1996 bond referendum. He questioned how would the projects be prioritized.

City Manager Conner stated at the July 22, 2004 work session she will be providing information on concerns with the bond issue in 1996 and where the money has been expended.

Mayor Bell voiced concern with timing and suggested that a bond referendum be held in 2005. The Mayor made comments on having a bond in 2004 to address transportation needs only [street improvements].

Discussion was held on the possibility of holding a special election in 2005 on a bond referendum.

A motion was made by Mayor Pro Tempore Cole-McFadden to direct the staff to begin preparing for a bond referendum in 2005 to include the appropriate meetings with the public and staff to identify the items to be placed on the referendum. This motion was seconded by Council Member Brown.

**SUBSTITUTE MOTION** by Council Member Clement seconded by Council Member Catotti to direct the staff to prepare for a bond referendum to be placed on the November 2004 ballot **FAILED** at 7:05 p.m. by the following vote: Ayes: Council Members Catotti and Clement. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown and Stith. Absent: None.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to direct the staff to begin preparing for a bond referendum in 2005 to include the

appropriate meetings with the public and staff to identify what items will be placed on the referendum was approved at 7:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: PROTEST SUBMITTED BY CONNEX, SOUTH LLC**

Assistant City Attorney Baker noted at the June 10<sup>th</sup> Work Session, the Council suspended the rules and awarded the fixed route transit contract to MV Transportation. He noted at that time there was a protest filed by Connex on June 4<sup>th</sup>. He made comments on the memo dated June 6<sup>th</sup> from staff recommending denial of the protest on the grounds of timeliness and on the merits. Attorney Baker made comments on why the protest was not filed in a timely manner. He noted the staff provided a recommendation to the manager and made available to council at the June 7, 2004 meeting. He noted the item was referred to the June 10<sup>th</sup> Work Session and council voted to award the contract to MV; however, there was not distinct approval or disapproval of the Connex protest. He noted the FTA will not take an appeal unless there has been a denial of a protest. Assistant City Attorney Baker noted their argument has been by awarding the contract to MV the council has essentially denied the protest of Connex.

Mayor Bell made comments on an e-mail message sent to the manager from Steve Mancuso dated June 11, 2004 indicating council took action denying the protest submitted by Connex South and that the Council received a written recommendation from the staff on June 7<sup>th</sup>. Mayor Bell noted he had not received a memo dated June 6, 2004 pertaining to the staff's recommendation and he asked the Clerk to search her records and the Clerk noted she did not receive this memo. Attorney Baker made available to Council the June 6<sup>th</sup> memorandum concerning the recommendation regarding the protest submitted by Connex, South LLC.

Assistant City Attorney Baker noted he was in receipt of information from Coach USA reaffirming their desire not to be involved with transit operation after the end of their contract which is June 30, 2004. He noted the Council has approved MV; therefore, a contractor is in place.

Internal Audit Wanda Page made comments on the procurement process for fixed route transportation service.

Discussion was held on the RFP process, general manager, maintenance manager and operations manager.

The following persons made comments on this item:

Anita Keith-Foust expressed concern on how the entire procurement process has been handled and the staff providing misinformation.

Jennifer Bowman, representing Connex, noted they were very interested in the bus service for Durham. She made comments on the proposed General Manager being named by MV in the BAFO without having a commitment from Mr. Hartley. Ms. Bowman asked the council to continue to review Connex's protest [the issues raised in the protest].

Al Bell, representing Connex, made comments on the BAFO (Best and Final Offers); the proposed General Manager by MV and MV not meeting the requirements as a responsive bidder.

Attorney Floyd McKissick, representing MV Transportation, spoke in support of MV providing fixed route transportation service for the City of Durham and noted the contract has already been awarded. He also made comments on Connex's protest not being filed in a timely manner.

John \_\_\_\_\_ President of MV Transportation, stated the council has already awarded the contract and MV has already hired 163 employees and the employees are suppose to start service within 8 days. He noted it was a common practice in the industry for managers to go from one firm to another. He made comments on Connex not filing their protest in a timely manner and not following the rules.

Mayor Bell asked the manager what assurances can be given to the Council that continued bus service will be provided on July 1, 2004.

City Manager Conner stated as long as the city enters into a contractual agreement with MV the expectation is they will provide service.

A representative from Connex replied that is correct.

Council Member Catotti spoke in support of denying protest submitted by Connex and asked the Attorney should that be a motion.

Assistant City Attorney Baker stated the Council needed to make a decision on the protest by accepting the protest, deny the protest or defer the protest and continue it on to something else.

Attorney Blinder noted it might be helpful for the FTA in making its decision to have the manager ratify/reaffirm her recommendation contained in the memo dated June 6, 2004.

Mayor Bell stated since the Council was told they did things properly at the June 10<sup>th</sup> meeting why can't the Council reaffirm that action.

Council Member Stith expressed concern with the entire process noting council did not take action on the protest neither to confirm or deny it.

Council Member Stith recommended that the Council rescind the action on June 10<sup>th</sup> awarding the contract to MV Transportation and to direct staff to obtain temporary bus service and continue the investigation on this issue.

**MOTION** by Council Member Catotti seconded by Council Member Clement to deny the protest submitted by Connex, South LLC as recommended in the June 6, 2004 memo was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti and Clement. Noes: Council Member Best and Stith. Absent: None.

#### **SUBJECT: STATUS REPORT – BIRCHWOOD COMMUNITY PROGRAMS**

The administration provided a memo dated June 22, 2004 updating Council on Birchwood Community Programs.

Discussion was held on the utilities for the Birchwood facility and the 12 scholarships reserved and only 5 being utilized.

**MOTION** by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to utilize the funds allocated in FY 2004 for Birchwood programming to provide transportation and scholarships for fifteen (15) youth from the Birchwood community to attend the John Avery Boys and Girls Club summer day camp program for a period of six weeks was approved at 8:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

#### **SUBJECT: OLD NORTH DURHAM PARK**

Mark Greenspan made comments on Old North Durham Park.

Anita Keith-Foust asked that Old North Durham Park be used as a game field not as a partial playground.

Mayor Bell asked the administration [Mark Greenspan and Katie Kalb] to visit Winston Salem to see how they maintain their parks and roadways.

#### **SUBJECT: EVALUATION OF CITY COUNCIL EMPLOYEE**

Anita Keith-Foust spoke in support of City Manager Conner and asked council to also support her.

**MOTION** by Council Member Best seconded by Council Member Catotti to go into closed session to discuss the monthly evaluation of the City Manager was approved at

8:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

D. Ann Gray, CMC  
City Clerk